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**APPEALS BOARD  
UTAH LABOR COMMISSION**

**GENE WILLIAM BALLARD,**

**Petitioner,**

**vs.**

**GRAMOLL CONSTRUCTION  
COMPANY and AMERICAN  
ZURICH INSURANCE,**

**Respondents.**

**ORDER AFFIRMING  
ALJ'S DECISION**

**Case No. 06-1107**

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Gene William Ballard asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Lima's denial of Mr. Ballard's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Appeals Board exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63-46b-12 and § 34A-2-801(3).

**BACKGROUND AND ISSUE PRESENTED**

Mr. Ballard claims workers' compensation benefits against Gramoll Construction Company and its insurance carrier, American Zurich Insurance, (referred to jointly as "Gramoll") for a work accident that occurred on July 6, 2004, that injured his right knee. After holding an evidentiary hearing, Judge Lima appointed a medical panel. Relying on the medical panel's report and the supporting evidence, Judge Lima denied benefits.

Mr. Ballard argues that Judge Lima failed to give proper weight to his medical evidence when she concluded that the preponderance of the evidence showed that his current knee condition was not caused by the work accident.

**FINDINGS OF FACT**

The Appeals Board adopts Judge Lima's findings of facts. The facts relevant to Mr. Ballard's motion for review are as follows:

On July 6, 2004, Mr. Ballard injured his knee at work when he slipped and fell into a large hole, hyperextending his right knee. An MRI showed a torn meniscus and evidence of prior anterior cruciate ligament (ACL) repair.<sup>1</sup> Mr. Ballard underwent right knee surgery in October 2004 to repair the torn meniscus. Mr. Ballard's doctor later concluded that Mr. Ballard's right ACL required

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<sup>1</sup> Mr. Ballard had right knee ACL reconstruction in 1992.

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reconstruction surgery. However, Dr. Morgan conducted an independent medical examination (IME) and concluded that surgery was unnecessary because Mr. Ballard's ACL was still intact. He further stated that if ACL surgery were necessary later, it would be due to Mr. Ballard's preexisting problems with the ACL, rather than the work accident.

Judge Lima appointed an impartial panel of medical experts to review the medical aspects of Mr. Ballard's condition. The panel agreed with Dr. Morgan's opinion that Mr. Ballard's right ACL condition was not caused by the accident and, that if Mr. Ballard later needed ACL surgery, it would not be due to the work accident.

**DISCUSSION AND CONCLUSIONS OF LAW**

The central issue raised in Mr. Ballard's motion for review is whether the medical evidence demonstrates that Mr. Ballard's current knee condition was caused by the work accident. Although Mr. Ballard argues that his evidence was not given proper weight, the Commission notes that an impartial medical panel reviewed Mr. Ballard's evidence, and the IME report and conducted its own independent examination. Based on this information, the panel concluded that Mr. Ballard's current ACL condition was not caused by the work accident. The panel's opinion is also consistent with Dr. Morgan's conclusions.

The Appeals Board finds the impartial panel report persuasive on the issue of medical causation and therefore agrees with Judge Lima's conclusion that the preponderance of the evidence demonstrates Mr. Ballard's current ACL condition was not caused by the July 6, 2004, work accident.

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**ORDER**

The Appeals Board affirms Judge Lima's decision. It is so ordered.

Dated this 2<sup>nd</sup> day of May, 2008.

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Colleen S. Colton, Chair

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Patricia S. Drawe

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Joseph E. Hatch

**NOTICE OF APPEAL RIGHTS**

Any party may ask the Appeals Board of the Utah Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Appeals Board within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.